

November 9, 2020

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Via www.foiaonline.gov

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Region 2 Freedom of Information Officer
United States Environmental Protection Agency
Region 2
290 Broadway, 26th Floor
New York, NY 10007-1866

**Re: 2020.11.09 - Freedom of Information Act Request re: Newark Bay Study Area
Baseline Human Health Risk Assessment**

To Whom It May Concern:

We submit this document request pursuant to the Freedom of Information Act, 5 U.S.C. § 552 et seq, *as amended* ("FOIA"). This request concerns the United States Environmental Protection Agency's ("EPA") files concerning documents related to the Newark Bay Study Area, Operable Unit 3 of the Diamond Alkali Superfund Site which includes Newark Bay and portions of the Hackensack River, Arthur Kill, and Kill Van Kull (collectively the "NBSA"). More specifically, we request information related to the NBSA Baseline Human Health Risk Assessment for the NBSA ("BHHRA").

By way of background, the NBSA BHHRA was prepared as part of the NBSA remedial investigation/feasibility study ("RI/FS"). The BHHRA and RI/FS are being conducted by Glenn Springs Holdings, Inc. (GSH) on behalf of Occidental Chemical Corporation, pursuant to the NBSA Administrative Order on Consent ("AOC") under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA Index 02-2004-2010; USEPA 2004a). This FOIA request seeks documents relating to the approach, methods, and assumptions utilized by GSH and EPA for the selection of contaminants of concern ("COC") and risk drivers for the NBSA BHHRA.

We request the following information relating to the NBSA BHHRA:

- Draft BHHRA submissions to EPA, from EPA's receipt of the first Draft BHHRA submission through and including EPA's final BHHRA approval;
- EPA comments to GSH BHHRA submissions, from EPA's comments on GSH's first Draft BHHRA submission through and including EPA's final BHHRA approval;

- GSH responses to EPA BHHRA comments, from GSH's first responses to EPA's Draft BHHRA comments through and including EPA's final BERA approval;
- Communications between the EPA Superfund Technical Support Center ("STSC") and the EPA Region 2 risk assessor related to toxicity values for use in NBSA BHHRA, including but not limited to copper, from 2017 through and including 2019;
- Communications between EPA and Tierra Solutions, Inc. ("TSI") regarding draft versions of the NBSA Crab and Clam Sampling and Analysis Quality Assurance Project Plan ("QAPP") including EPA comments and TSI responses, from 2012 through and including 2014;
- Communications between EPA and TSI regarding draft versions of the NBSA Fish Sampling and Analysis QAPP, including EPA comments and TSI responses, from 2012 through and including 2014;
- Communications between EPA and GSH regarding the approach to and evaluation of background and background risk per Section 5.4.1 of the 2018 Final Pathways Analysis Report (prepared by Battelle) and Section 4 of the 2014 Fish Sampling and Analysis QAPP (prepared by TSI), from 2012 to the present;
- A copy of the following documents titled:
 - "Proposed Risk Assessment Field Sampling and Analysis Program – Newark Bay Study Area (ARCADIS 2013)"; and
 - "Technical Memorandum: Risk Assessment Field Sampling and Analysis Program – Newark Bay Study Area (ARCADIS 2015)."
- Communications and supporting documents regarding The Risk Assessment Guidance for Superfund ("RAGS") Part D tables including but not limited to the draft tables provided by EPA to GSH, GSH comments on the draft tables and EPA responses, and final resolution communications on these tables as cited in the Final BHHRA, as follows:
 - USEPA. 2017a - Comments on Draft RAGS Part D Tables 1 and 4 for the Newark Bay Study Area of the Diamond Alkali Superfund Site. Memorandum from Marian Olsen, EPA, and Pam Rodgers, Battelle Memorial Institute ("Battelle"), to Eugenia Naranjo, EPA dated February 1, 2017 and accompanying materials: EPA Revised RAGS Part D Table 4.xlsx.
 - USEPA. 2017b - EPA Review of Responses to February 1, 2017 Comments on Draft RAGS Part D Tables 1 and 4 for the NBSA of the Diamond Alkali Superfund Site. EPA April 21, 2017.

- USEPA. 2017c - EPA Review of Responses to February 1, 2017 Comments on Draft RAGS Part D Tables 1 and 4 for the Newark Bay Superfund Site. EPA, July 14, 2017.
- USEPA. 2018a - Review: RAGS Part D Tables Developed by GSH for the Newark Bay Study Area Human Health Risk Assessment. Memorandum from Pam Rodgers (Battelle) and Marian Olson (EPA) to Len Warner and AmyMarie Accardi-Dey (The Berger Group Holdings, Inc.) dated April 11, 2018 and transmitted to EPA on April 24, 2018.
- USEPA. 2018b - Comments on Supplemental Comments for Newark Bay. Memorandum from Marian Olsen (EPA) to Eugenia Naranjo. September 18, 2018.
- USEPA. 2018c - Electronic mail to Carlie Thompson, Glenn Springs Holdings, from Eugenia Naranjo (EPA), October 16, 2018.

Please note that this request is sufficiently specific and narrow. This request is not meant to exclude any other records that, although not specially requested, are reasonably related to the subject matter of this request which are contained in the EPA's files. If EPA has destroyed or determines to withhold any records that could be reasonably construed to be responsive to this request, we ask that you indicate this fact and the reasons therefore in the response.

In the interest of efficiency, we request a rolling production of responsive records as processed, produced and released to www.foiaonline.gov. We appreciate your anticipated prompt attention in obtaining a determination of the requested records. As mandated by FOIA, we anticipate a reply within 20 working days. 5 U.S.C. § 552(a)(6)(A)(i). Please provide a complete reply as expeditiously as possible. Should EPA find this request to be unclear, or if the responsive records are voluminous, please e-mail me at robert.lagravenis@klgates.com or telephone me at (973) 848-4020 to further clarify and discuss the scope of this request.

Very Truly Yours,

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